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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,333	06/09/2006	Alexander Kehrmann	KEHRMANN-4	5389

20151 7590 03/03/2011  
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EXAMINER
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ABU ALI, SHUANGYI

ART UNIT	PAPER NUMBER
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1731

NOTIFICATION DATE	DELIVERY MODE
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03/03/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@FEIEREISENLLC.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,333	<b>Applicant(s)</b> KEHRMANN, ALEXANDER	
	<b>Examiner</b> SHUANGYI ABU ALI	<b>Art Unit</b> 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-18 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-18 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/05/2010 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 15-18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE10014468 to Kehrmann, in view of U. S. Patent No. 4784691 to Rasmussen

Art Unit: 1731

Regarding claims 15-16 and 25, Kehrmann discloses a composition comprising  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  and limestone, which is an mineral acid modifier as applicant set forth in claim 25 (Page 3, lines 1-14). But he is silent about the using of  $\text{FeSO}_4 \cdot \text{H}_2\text{O}$  as applicant set forth in the instant application.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to use  $\text{FeSO}_4 \cdot \text{H}_2\text{O}$  in the cement composition, motivated by the fact that Rasmussen, also drawn to cement composition, disclose that  $\text{FeSO}_4 \cdot n\text{H}_2\text{O}$  ( $n$  is in the range of 1-7, which is evidenced by the applicant submitted D4 translation), is used to reduce the content of the chromate in the cement composition and to obtain healthy working environment (col. 1, lines 41-47).

Regarding claim 17, kehrmann discloses that the amount of the  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  is about 0.01-3% by weight of the cement and the limestone amount is in the range of 0.5-15% by weight of the  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$ .

Regarding claim 18, Kehrmann discloses that the amount of the  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  is about 0.01-3% by weight of the cement. Rasmussen discloses the chromate reducer amount is in the range of 0.01-1%, therefore the amount of the  $\text{FeSO}_4 \cdot \text{H}_2\text{O}$  can be in the range of 0-0.99%. When the amount of the  $\text{FeSO}_4 \cdot \text{H}_2\text{O}$  and  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  is both in the range of 0.5%, the ratio of  $\text{FeSO}_4 \cdot \text{H}_2\text{O}$  to  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  is 1.

Art Unit: 1731

The declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the application number of the instant case is 10/596333

The declaration under 37 CFR 1.132 filed 01/13/2010 is insufficient to overcome the rejection of claims based upon the unexpected result because: The data provided are not commensurate in scope with the claimed invention. 1) For claim 15, there is no amount requirement of the acid regulator. There is no ratio limitation for copperas and filter salt. 2) The applicant limits the acid regulator to limestone with a specific amount only. Furthermore, the declaration fail to show the unexpected result by comparing the application with the closest art, which is Kehrmann. Kehrmann has the best result, which discloses a composition comprising  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  and limestone.

### ***Response to Arguments***

Applicant's arguments filed 10/05/2010 have been fully considered but they are not persuasive.

The declaration under 37 CFR 1.132 filed 01/13/2010 is insufficient to overcome the rejection of claims based upon the unexpected result as set forth in the last Office action because: The data provided are not commensurate in scope with claimed invention. 1) For claim 15, there is no amount requirement of the acid regulator.

Art Unit: 1731

There is no ratio limitation for copperas and filter salt. 2) The applicant limits the acid regulator to limestone only, which is not in the claims .15-18. Furthermore, the declaration fails to show the unexpected result by comparing the application with the closest art, which is Kehrmann. Kehrmann has the best result, which discloses a composition comprising  $\text{FeSO}_4 \cdot 7\text{H}_2\text{O}$  and limestone.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHUANGYI ABU ALI whose telephone number is (571)272-6453. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/596,333  
Art Unit: 1731

Page 6

/Shuangyi Abu-Ali/  
Examiner, Art Unit 1731